

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 4, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 4, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap; Chair; Harold Warner Jr.; Vice-Chair; James Barfield; Darrell Downing; John W. McKay Jr.; Bill Johnson; Bud Hentzen; Ronald Marnell; Bob Hernandez; Elizabeth Bishop; Denise Sherman and Gary K. Gibbs. Frank Garofalo and M.S. Mitchell were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; and Rose Simmering, Recording Secretary.

❖ **PLANNING COMMISSION ITEMS**

1. Approval of October 7, 2004, and October 21, 2004 meeting minutes.

MOTION: To approve the MAPC October 7, 2004 meeting minutes with corrections to staff report noted.

WARNER moved, **HERNANDEZ** seconded the motion, and it carried (12-0).

MOTION: To approve the MAPC October 21, 2004 meeting minutes.

WARNER moved, **MCKAY** seconded the motion, and it carried (12-0).

2. Approval of MAPC 2005 Yearly Calendar.

MOTION: To approve the MAPC 2005 Year Calendar.

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (12-0).

❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee recommendations

3-1. SUB2004-123 – Final Plat – KOKER ADDITION, located north of Central and on the west side of 119th Street West.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **Fees in lieu of assessment regarding sewer main connections are required.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **An off-site drainage easement is needed with the property to the west. A drainage guarantee is needed.**
- D. Complete access control needs to be dedicated along the 119th St. frontage.
The requested access controls have been platted.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. As private improvements, such guarantee shall not be provided through the use of a petition.
- F. **Traffic Engineering** has requested the dedication of additional right-of-way along 119th St. West to conform with the 60-ft half-street right-of-way required by the Access Management Regulations.
The requested right-of-way has been platted.
- G. The Applicant shall guarantee the paving of the proposed streets.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.

- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's east property line and driving surface for 119th St. West.

- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff comments and citing the finding in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

3-2. **SUB2004-95 – Final Plat – CHERYL'S HOLLOW ADDITION, located on the north side of 13th Street North and west of 135th Street West.**

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family residential and will be converted to SF-5, Single-Family Residential upon annexation.

The final plat is the south portion of the preliminary plat and represents the first phase of development. A revised preliminary plat has also been provided.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.

- B. The applicant shall guarantee the extension of sanitary sewer main and laterals and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan. A guarantee is needed.**
- E. **A petition for left turn lanes is needed.**
- F. **Traffic Engineering** has requested a revision of the street layout.

The street layout has been revised as requested on the preliminary plat.
- G. Complete access control needs to be platted along the plat's frontage to 13th Street. The final plat shall reference the dedication of access controls in the plat's text.

Access controls have been platted as requested.
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac (64-ft) streets.
- I. The Subdivision Regulations require that for urban subdivisions, the Applicant shall provide for paved access of section-line roads between the nearest paved segment and the entrance to the subdivision, unless waived by the governing body. **The Applicant shall guarantee the paving of 13th St. North from the end of paving for Coppergate North Addition to the first entrance of this plat.**
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 2, Block 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The Subdivision Committee has approved this modification.**
- O. **GIS** needs to comment on the street names. **GIS has requested street name changes on the preliminary plat.**
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices

must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested an adjustment of utility easements to avoid encroachment into a transmission line easement.
- Z. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

3-3. SUB2004-126 – One-Step Final Plat – NORTH STAR SECOND ADDITION, located on the east side of West Street and north of Douglas.

NOTE: This is a replat of Lot 1, Block A in the North Star Addition in addition to unplatted land. A portion of the site has been approved for a zone change (ZON 2004-45) from SF-5, Single-Family Residential and B, Multi-Family Residential to LC, Limited Commercial. The plat also includes the vacation of First Street.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. City Water and Sewer Department recommends a private easement for the benefit of Lot 3.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. Traffic Engineering needs to comment on the access controls. The plat proposes two openings along West. Access control except one opening is approved. A restrictive covenant shall be provided that requires the closure of the south opening upon redevelopment of the site. Since the plat includes the vacation of the north half of First Street, the Applicant shall contact the property owners to the south to attempt to have the south half of the First street right-of-way vacated.
- E. The access easement for the benefit of Lot 3 referenced in the plat's text shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- F. The City Council certification needs to be revised to reference Carlos Mayans, Mayor.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of

Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

3-4. **DED2004-29 - Dedication of a Utility Easement, for property located east of Meridian and on the south side of Harry.**

DED 2004-29: Dedication of a Utility Easement from Phillip G. Ruffin, c/o Chris Ruffin, for property located on the south side of Harry and east of Meridian.

LEGAL DESCRIPTION:

A 20 and 30-foot Utility Easement for a portion of Lots 1 and 2, Block B, Santa Fe Orient Industrial Third Addition to Wichita, Sedgwick County, Kansas described as:

Commencing at the northwest corner of Lot 2, thence N89° 53'40" E, along the north line of Lot 2, 21.48 feet to the point of beginning; thence continue N 89°53'40" E, 30.00 feet thence S00°06'20" E, parallel with the west line of said Lot 2, 213.00 feet; thence S 89°53'40" W, parallel with the north line of Lot 2, 10.00 feet; thence S00°06'20" E, parallel with the west line of Lot 2, 55.00 feet; thence S89°53'40" W, parallel with the north line of Lot 2, 51.48 feet; thence N00°06'20" W, parallel with the west line of Lot 2, 20.00 feet; thence N 89°53'40" E, parallel with the north line of Lot 2, 31.48 feet; thence N 00°06'20" W, parallel with the west line of Lot 2, 248.00 feet to the point of beginning.

PURPOSE OF DEDICATION: This dedication is associated with Lot Split Case No. SUB 2004-124 and is being dedicated for construction and maintenance of public utilities.

AGENT/SURVEYOR: Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

3-5. **DED2004-30 - Dedication of a Utility Easement, for property located on the east side of Ridge Road and north of 29th Street North.**

DED 2004-30: Dedication of a Utility Easement from Rob Ramseyer, Ridge Port Development, LLC, for property located on the east side of Ridge Road and north of 29th Street North.

LEGAL DESCRIPTION:

A 10-foot Utility Easement for the south 10.00 feet of the north 20.00 feet of Lot 2, Block B, Ridge Port Fourth Addition, Wichita, Sedgwick County, Kansas, except the west 25.00 feet thereof, together with at part of Lot 3, in Block B, described as follows:

Commencing at the northwest corner of Lot 3, thence S07° 41'14" W, along the lot line common to said Lots 2 and 3, 10.08 feet to the intersection with the south line of a 10-foot utility easement as granted in said Ridge Port Fourth Addition, and for a point of beginning; thence S 89°33'01" E, along said easement line, 11.23 feet to a deflection corner in said easement line; thence S44°08'23"E along a line of said easement, 14.04 feet to a point 20.00 feet normally distance south of the north line of Block B, as extended east; thence N 89°33'01" W, parallel with said extended north line, 22.35 feet to the intersection with the lot common to said Lots 2 and 3; thence N07°41'14" E, along said common lot line, 10.08 feet to the point of beginning.

PURPOSE OF DEDICATION: This dedication is associated with Lot Split Case No. SUB 2004-108 and is being dedicated for construction and maintenance of public utilities.

November 4, 2004

Page 6

AGENT/SURVEYOR: Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

4-1. **VAC2004-50- Request to Vacate a Portion of a Platted Floodway, located southwest of 103rd Street West and 71st Street South.**

APPLICANT/OWNER: Suzanne and Stephen Lill

LEGAL DESCRIPTION: A portion of the platted floodway located on the north side of Lot 21, Block 1, the Spring Creek Addition, Wichita, Sedgwick County, Kansas (see attached exhibit and legal)

LOCATION: Generally located southwest of the 71st Street South – 103rd Street West intersection, more specifically located north of the Bluewater Street – Bluewater Court intersection, 10530 Bluewater Court (Sedgwick County)

REASON FOR REQUEST: Detached garage

CURRENT ZONING: Subject property and all adjacent and abutting lots are zoned “RR” Residential

The applicant is requesting consideration for the vacation of a portion of a platted floodway located on the north side of Lot 21, Block 1, the Spring Creek Addition. Per the plat's text, no structure shall be constructed on or within the said floodway, nor shall any fill, change of grade, creation of a channel or any other work on be carried out unless approved by the Wichita – Valley Center Flood Control Office or their successors. The floodway runs east to west through the Spring Creek Addition and into the Spring Creek 2nd Addition, which abuts the west side of the Spring Creek Addition subdivision. There are no sewer or water lines in the floodway reserve. The applicant proposes to use the vacated portion of the floodway for the construction of a detached garage. The Spring Creek Addition was recorded with the Register of Deeds October 1, 1996.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted floodway reserve as described in the legal description with the following conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time October 14, 2004, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted floodway reserve and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the floodway reserve described in the petition should be approved with conditions:

- (1) Vacate only that portion of the platted floodway as approved by County Public Works Engineer/ Wichita – Valley Center Flood Control Office. Provide Staff, if needed, with plans for review and approval by the County Public Works Engineer/ Wichita – Valley Center Flood Control Office. All to be provided prior to the vacation case proceeding to BOCC and prior to the issuing of any permits for construction, grading or changing of the channel.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

November 4, 2004

Page 7

(1) Vacate only that portion of the platted floodway as approved by County Public Works Engineer/ Wichita – Valley Center Flood Control Office. Provide Staff, if needed, with plans for review and approval by the County Public Works Engineer/ Wichita – Valley Center Flood Control Office. All to be provided prior to the vacation case proceeding to BOCC and prior to the issuing of any permits for construction, grading or changing of the channel.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

(3) All improvements shall be according to County Standards.

(4) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

BISHOP According to the map then it is only the one little corner that is in the floodway?

LONGNECKER Points out on map.

HENTZEN Are you recommending approval?

LONGNECKER Yes.

STEPHEN LILL, 10530 Bluewater Court, Applicant Yes, we are in agreement with the conditions and recommendations of staff.

MOTION: To approve subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

4-2. VAC2004-52 – Request to Vacate a Platted Setback and Easement, located approximately 1/4 mile east of 143rd Street East, on the north side of 13th Street North, northeast of the Freedom Road/Freedom Court intersection.

OWNER/APPLICANT: Janet Chopine

AGENT: PEC, PA c/o Rob Hartman

LEGAL DESCRIPTION: A portion of the platted 20-foot easement and a portion of the platted 30-foot setback on the south side of Lots 5 & 6, Block 1, Savanna at Castle Rock 7th Addition, as recorded Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between 159th Street East and 143rd Street East, north of 13th Street North, more specifically northeast of the Freedom Road – Freedom Court intersection, 1440 North Freedom Court (Sedgwick County)

REASON FOR REQUEST: Allow more area to build

CURRENT ZONING: Subject property and all abutting and adjoining properties are zoned “SF-20” Single-Family Residential

The applicant is requesting consideration for the vacation of a portion of the platted 20-foot utility easement and a portion of the platted 30-foot setback that run parallel to the south property lines of Lots 5 & 6, Block 1, the Savanna at Castle Rock Ranch 7th Addition. The lots are located on the northeast portion of the Freedom Road Court cul-de-sac. The applicant proposes the vacation to allow more area to build a single-family residence on the two lots. The UZC provides a 25-foot front setback for the “SF-20” zoning district. The Savanna at Castle Rock Ranch 7th Addition’s streets were platted per the Subdivision’s residential suburban standards, but the streets have been developed as if they were city local residential streets. There are gas, sewer and water lines in the 70-foot street ROW (city local residential streets would have a 58-foot ROW) and the 75-foot radius (city local residential streets would typically have a 50-foot radius ROW) of the cul-de-sac. The location of the utilities in the ROW at this location leaves approximately 30-feet of undeveloped ROW at this site, which is not typical. The Savanna at Castle Rock Ranch 7th Addition was recorded with the Register of Deeds August 25, 1997.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted 20-foot easement and a portion of the platted 30-foot setback as described in the legal description with the following conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time October 14, 2004, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and a portion of the platted setback and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of portions of the platted easement and the platted setback described in the petition should be approved with conditions;

- 1) Vacate the north 20-feet of the platted 30-foot setback, where the encroachment occurs on the south side of Lots 5 & 6, Block 1, Savanna at Castle Rock 7th Addition.
- 2) Vacate the north 10-foot of the platted 20-foot utility easement located on the south side of Lots 5 & 6, Block 1, Savanna at Castle Rock 7th Addition.
- 3) Provide Staff with a metes and bounds description of the vacated portions of the platted setback and platted utility easement where the encroachment occurs.
- 4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- 5) All improvements shall be according to City Standards.
- 6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the north 20-feet of the platted 30-foot setback, where the encroachment occurs on the south side of Lots 5 & 6, Block 1, Savanna at Castle Rock 5th Addition.
- (2) Vacate the north 10-foot of the platted 20-foot utility easement located on the south side of Lots 5 & 6, Block 1, Savanna at Castle Rock 5th Addition.
- (3) Provide Staff with a metes and bounds description of the vacated portions of the platted setback and platted utility easement where the encroachment occurs.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (5) All improvements shall be according to City Standards.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

Item 4.2 was withdrawn at the applicant's request

❖ **PUBLIC HEARINGS –SUBDIVISION ITEM**

5. **Case No.: DR2004-10** - Request Amendment to Subdivision Regulations relating to The Wichita-Sedgwick County Subdivision Regulations to add provisions regarding public utility easements associated with lot splits, plats and vacations

The following revisions are proposed to clarify the need for additional easements associated with plats, lot splits or vacation cases.

Section 7-205 (A) **Public Utility Easements**. Public utility easements shall be provided ~~where necessary, as follows:~~ Utility Easements typically are for proposed utilities shall be centered on rear or side lot lines and shall be at least 20-feet wide along rear lot lines and 10-feet wide along side lot lines. These easements should generally be widened appropriately, not to exceed 30 feet or set back from the lot line appropriately to protect existing tree rows from damage. Where a proposed plat, lot split or vacation contains any existing utility easements that are less than the minimum widths required by these regulations, additional easement shall be dedicated. Utility easements for street lighting purposes shall not be required to exceed 10 feet in width. If a utility easement is to also be used for drainage purposes, the easement shall be designated on the plat as both a utility and drainage easement, and additional width may be required. For plats or lot splits in areas with existing water and sewer mains, a public sewer easement or public water easement may be established to protect a private sewer line or private water line across one ownership to serve another ownership with the approval of the System Planning Division of the City of Wichita Water and Sewer Department.

DUNLAP This is a public hearing and the Chair is going to request your indulgence on this item to hold the public hearing, listen to the comments, accept the comments, and then close the public hearing, and then defer our action until Commissioner Mitchell can return because he would like to have some input on this Item. But rather than defer the whole Item and have anybody who came for the public hearing have to come back, we will hold the public hearing and if it is acceptable to the Commission, we will close the public hearing and not take action on it today until we have had a chance to discuss it when Commissioner Mitchell is present.

BARFIELD Does Commissioner Mitchell wants to address us as a private citizen or as a Planning Commission member?

DUNLAP He wants to address us as a member of the Commission.

BISHOP Does that mean when we do consider it for action we would be holding another public hearing?

DUNLAP No, we will hold the public hearing today because it was advertised for today and take input from the public today.

BISHOP I have a problem with that because if what Commissioner Mitchell wants to provide to us would cause a change then what we have advertised for public hearing...

DUNLAP If Commissioner Mitchell was here, we would have the public hearing and then we would close the public hearing, and then we would have the discussion of the Commission. That is exactly what we are proposing here. We are proposing that we delay the discussion of the Commission until Commissioner Mitchell is here. But, we would take the public hearing and close it anyway before he made any comments.

MARNELL Let's see if anyone is here to speak on this Item and if there is not, delay?

DUNLAP Well, we already published the public hearing.

DUNLAP That is the problem that we have. I will ask if there is anyone here to speak on this Item?

AUDIENCE No response.

DUNLAP That being the case we will close the public hearing.

MOTION: To defer action on this Item until our next meeting.

MARNELL moved, **HERNANDEZ** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

6. **Case No.: CON2004-33** – Donald E. Crawl, Dennis D. Crawl, Diane K. Thompson & Dana J. Haddon Revocable Trust and Cornejo & Sons, Inc., (applicants); Chuck Hill (agent) Request Sedgwick County Conditional use for sand extraction

Government Lots 2 and 3 and the Southwest Quarter of the Northeast Quarter except 27.05 acres Levee CC-A-48670 and except beginning 469.23 feet South of the Northeast Quarter, South 333.67 feet; Southeasterly 389.92 feet; Southeasterly 231 feet; Northeasterly 144.3 feet to the Levee right-of-way; Northwesternly along right-of-way to beginning and except Highway on West and except the South 137 feet of the West 319.97 feet more or less, and The North Half of the Southeast Quarter except .66 acre Levee CCA-48670 and except the N 203.32 feet of the West 320 feet, All in Section 34, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas. by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 9th day of July, 2004 at 7:00 A.M. Generally located Southeast of 63rd Street South and Grove.

MAPC DEFERRED OCTOBER 7, 2004

BACKGROUND: The applicants are seeking a County Conditional Use permit to allow the mining/extraction of sand and gravel on 135 acres located approximately 1,000 feet south of 63rd Street South and east of Grove Street. The Arkansas River is located northeast of the site while Grove Street is the western boundary. The attached operational plan depicts an excavation that ultimately creates a 98-acre lake. The sand plant, material storage and stockpiles are to be located on a 12-acre portion of the eastern side of the site, adjacent to the Arkansas River. This 12-acre area containing the sand plant is to be excavated last, with the equipment removed to make way for a 20-lot single-family residential development (as depicted on the attached redevelopment plan).

The attached operations plan indicates the site would be fenced; material would be excavated to at least six feet below normal water table; side slopes would be treated to prevent erosion and slopes would be graded to prevent erosion. The applicants estimate they will excavate to a depth of approximately 25 feet. Setbacks of 50- to 100-feet are shown along the south side (adjacent to residences) and west side (adjacent to Grove Street and residences), with a 300-foot setback from the northeast side (Arkansas River) and the east side (residences and Arkansas River). The applicant estimates it will take ten years to complete mining operations.

The land to the west of Grove, south of the application area and east of the application area is platted and developed with single-family residential uses. A single-family home is also located immediately to the north of the site, east of Grove within the City of Wichita. A second single-family home is located on the "left-out" tract located east of Grove that projects into the site at the midway-point of the proposed excavation-lake. The operations site plan depicts a 50-foot buffer on the north, east and south side of this home.

A review of an aerial of the general area indicates that sand excavations have occurred north of the river on at least two sites.

Proposed access to the site is via Grove and Lorraine streets.

If approved, the Grove Street access point would be the preferred primary entrance while sand extraction is ongoing since it would affect the least number of residents, and be the most direct route to an arterial street, 63rd Street. The City would expect Grove Street to be improved from 63rd Street, south to their first entrance to industrial street standards in order to accommodate anticipated truck traffic. The southern access point, presumably connecting to Lorraine Street (located to the south of the site serving single-family residences), should be restricted to an emergency only drive while sand extraction is underway in order to minimize truck traffic on a residential street. Once sand extraction is completed and the site is redeveloped with residential uses, as proposed, then the emergency only restriction could be removed.

Staff is advised by County staff that the eastern high bank of the Arkansas is recognized as a flood control structure. Excavations near the riverbank require review and approval by the County prior to beginning any excavations. As a result of that review, limitations on how close mining would be allowed to the high bank could be set that could be greater than those proposed by the applicant's site plan.

The site contains an abandoned well. The well is located approximately 990 feet west of the east property line and approximately 1,050 feet north of the end of Volusia. According to the Kansas Corporation Commission, the well was a dry hole, drilled to a depth of 3,235 feet. The hole was filled with mud up to a depth of 215 feet, a plug was set then 30 sacks of cement were poured into the shaft. More mud was then put in the hole up to 40 feet of the surface. Another plug was set and 10 more sacks of cement were placed in the hole. Corporation Commission rules state that anyone who tampers with a well becomes responsible for the well.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; single-family residence
SOUTH: SF-5 Single-family Residential; residences
EAST: RR Rural Residential; Arkansas River; single-family residences, sand pit
WEST: SF-5 Single-family Residential, LC Limited Commercial; residences, golf course

PUBLIC SERVICES: Grove is a paved local street. No public sewer is available in this area. Water service is available.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development guide depicts this site as being located within the City of Wichita's 2030 "urban service area," and contains policies that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential area, and sited so as not to generate industrial traffic through less intensive areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site plan (including any modifications to limitations on the scope of excavations required to protect the eastern high bank of the Arkansas River or the abandoned well), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (pp.147-149, attached). If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
2. The buffer around the home located at the mid-point of the excavation shall be 100 feet.
3. The access road leading to the southern property line shall be an emergency only access point until sand extraction is completed and the site is platted for residential development (per the approved post operational plan).
4. Grove, from 63rd Street south to the entrance to the site, shall be improved to industrial street standards.
5. The Conditional Use for sand extraction shall be valid for ten years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the initial ten year time period.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are two zoning districts in the neighborhood of the application area, RR Rural Residential and SF-5 Single-family Residential. Most of the land in the general area is developed with larger-lot single-family residences or associated uses such as a golf course. Land on three sides of the application area has been annexed by the City of Wichita.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential and is one of the more restrictive districts found in the code. The site could be developed as currently zoned for low-density residential uses with a two acre minimum lot size or the site could be annexed that would change the sites zoning to SF-5 Single-family residential uses and developed with residences. However these homes would have to use on-site sewer systems or extend sewer service since sewer service is not available.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the Conditional Use would isolate an existing house located on the east side of Grove. During excavation there could be additional noise, truck traffic and blowing dust when compared to residential development. When excavation is completed, the resulting lake could be seen as an enhancement as water features are generally viewed as positive additions to residential settings. The conditions of approval will help to mitigate detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The construction industry requires sand. The applicant is in the construction business and cannot operate his paving or concrete businesses without sand. When one is dependent upon a resourced based material like sand, one must go where the sand is located. If the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. Since sand is used in many public and private projects a shortage of sand could negatively impact these projects by raising the cost or increasing the time to complete these projects. When completed the resulting lake can be seen as an amenity to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development guide depicts this site as being located within the City of Wichita's 2030 "urban service area," and contains policies that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential areas, and sited so as not to generate industrial traffic through less intensive areas.
6. Impact of the proposed development on community facilities: Increased traffic on Grove will likely increase maintenance requirements. Sand extraction does not require publicly supplied sewer or water services.

DALE MILLER Planning staff presented the report.

HERNANDEZ The proposed access during extraction, how far is that?

MILLER It is approximately 1,000 feet.

HERNANDEZ So about 3 1/2 blocks, that would be paved access?

MILLER Yes, it is paved currently today, and what the condition of approval is that it be approved to the Industrial Street Standard which is a 41 foot wide pavement with a thickness to the pavement that is designed to handle heavier truck traffic.

HERNANDEZ The Haysville Planning Commission denied this request?

MILLER Yes, it was denied. It was a motion to approve that failed (4-5).

BARFIELD Is the old oil well operational?

MILLER No it was a dry well according to the KCC, and it was plugged with mud and then 30 sacks of concrete and more mud, etc.

MCKAY It is plugged.

BARFIELD What is the anticipated volume of truck traffic in and out of this facility?

MILLER I believe 100 trucks a day is what they are estimating.

BARFIELD All this traffic will be on a dirt road?

MILLER No, Grove is paved. If the Fire Department wants a second point of access then it would be an emergency only point of access off of this road here. It would be gated and locked and accessible only by emergency services. But if it is approved then all the activity would come in, do their business, and then go back out the same way they came in.

BARFIELD That access point there is paved?

MILLER Grove is paved today all the way down to here, and what we are asking is that they will improve the pavement to Industrial Street Standards from 63rd down to the entrance. It would still be paved down here but it will be a different paving standard for this segment down here.

BARFIELD I guess I am confused because you say that one of the concerns of the Haysville Planning Commission was the noise, the dust, and truck traffic, so where is the dust coming from?

MILLER From the stockpiles and from the removal of the overburden and the sand itself in the removal mining process.

SHERMAN Give me the route again of where the trucks are going to come in, and where they are going to excavate.

MILLER Okay, 63rd is here, and Grove basically comes down and kind of curves and then approximately 1,000 feet south of 63rd is where they are showing their northern entrance here, which is on the site plan.

SHERMAN That is right in front of houses?

MILLER There are homes in this general area, here (pointing to the map). There is a golf course that wraps around; there is a clubhouse somewhere in this general area. Their entrance is approximately here.

DUNLAP Across from the golf course.

SHERMAN Then where do they go when they come in to excavate?

MILLER They would come into the center of the site.

SHERMAN Which is closer to the river?

MILLER The river is over here, and they have located their stockpile and their equipment area as far away from the residence as they could get. So, it would be here in the center. They would load the trucks and the trucks would then go back out the same way they came in, up Grove to 63rd and then wherever they are going.

SHERMAN Then the little notched area that is south is a residence?

MILLER Yes.

MARNELL On the view that you have up there you shows this is being surrounded by Wichita rather than Haysville, why did this go to the Haysville Planning Commission?

MILLER This remnant is left over from the Haysville Zoning Area of Influence. The City of Wichita annexed this property around here but did not annex that, so it is still in Haysville's Zoning Area of Influence.

CHUCK HILL, CORNEJO & SONS In the past 12 months our company has sold just under a million tons of sand from our two existing locations in Sedgwick County, Kansas. That sand is used in production of asphalt, concrete, for paving streets, highways, parking lots, driveways, basements, and foundations for new homes. About 50,000 tons of sand requires one acre of land for sand extraction to an average depth of 30 feet. So we need 18 acres of land fully extracted with sand on an annual basis just to meet our current production requirements.

We know that in the future there is going to be one project that will increase the demand substantially. The Rail Corridor project is going to require 800,000 tons of sand for the filling of the elevation of the railroad through town. That is another 16 acres of land on top of the existing demand for sand already in the County.

The sighting of a sand and gravel operation is not as simple as finding an empty tract of land with neighbors around it, and start to dig a hole until you find sand. The quality and the quantity diminish as you move away from the Arkansas River. Secondly, we have to find a willing seller of the land or someone who wants to be a landlord, and have a sandpit operation on their property.

Sand extraction requires a Water Appropriation Permit from the Division of Water Resources of the Department of Agriculture. After they have determined that granting that appropriation will not exceed predetermined ground water use limits for a two mile area surrounding the proposed pit, and that it will not adversely impact any surrounding property owners.

The reason we are here with this proposed site is because it meets all of those necessary criteria. We have a willing seller. We have done drilling samples in the area, and it appears that we have sufficient quality and quantity of sand to justify the expense of the development of a sand mining operation at this location. This will be one of the few locations down there where there are sufficient water rights available to accommodate what is required to handle the evaporated loss for a sandpit.

We have heard some opposition from prior meetings. The effect on domestic water wells, we have submitted a report from an independent licensed hydrogeologist setting forth his opinion that the development of this groundwater pit will have no adverse impact on the amount of water available for domestic water wells in the area, and will most likely increase the water for those domestic wells. Also, that it will not have an impact on the quality of groundwater.

The old oil well; we did get the records from the KCC so that we can locate the shaft, and it specifies how it was plugged. There will be dust and it will go towards the river, and will not impact the residential area on a regular basis. Traffic safety; he has mentioned that we have agreed to widen and update Grove at our expense. We have no objection to reduce the speed limit, or posting signs banning truck traffic going south from our entrance. We have no objection to the emergency gate to the south end that was requested by staff. We do not have any intention of sending any trucks out that way.

As far as safety, we have a report that shows that in the last two years there have been no fatality accidents involving our trucks, and only two injury accidents in well over two million miles of driving. We believe we have safe truck drivers.

We have agreed to put a landscape berm along Grove, and we would be happy to put one along the south.

There will be some inconvenience for the neighborhood but is there anything about this application that will have a significant adverse impact on the health, safety or welfare of the surrounding residences? If you look at the objective evidence, I submit that there is not any evidence to support that there will be.

We need to allow for the development of properties like this to serve a public need. We need sand to build public roads and to maintain this community, and we think this is a proposal that will do that with minimal impact on the minimal number of people at a location that meets all the necessary criteria for the operation.

HERNANDEZ This proposed site and the extraction of the sand, did you said how many trucks a day and what are the hours operation?

HILL There will be probably about 100 trucks a day, operating by 6 a.m. to sunset. That is what is allowed by the Zoning Code. That would be the maximum hours. We wouldn't necessarily run those hours each and everyday.

HERNANDEZ You are talking about five trucks an hour, every 10-12 minutes?

HILL Assuming they were spaced evenly throughout the day, yes. But I am not going to tell you that they will be spaced evenly throughout the day.

BISHOP Do you know what the general ground storm water drainage pattern is?

HILL I don't have a good handle on that but, again, one of the conditions imposed in the Zoning Code is that we have a drainage plan approved by the Engineering staff prior to commencement of operations. Basically we will take 90 acres out of this 135 acres from which there will be no drainage because it will be eventually an open ground water pit, and all the rain water will stop right there.

BISHOP I am looking at the issue of if you have a staging area, it appears there is a lake to the west, and my guess is the drainage is not in that direction but I don't know, and whether there could be a tenancy to exacerbate the possibility of silting in of that lake.

HILL That is an old sandpit operation. They build a golf course around that.

BISHOP So it is pretty deep?

HILL I couldn't tell you.

HARLAN FORAKER, Certified Engineering Design Yes, as part of the drainage plan and the development of this site as a sandpit operation, the drainage will be confined onsite so there will not be surface drainage from this site within the borders of this property or outside of the borders that will run off into that sandpit into the west. We are going to have to put a berm around the perimeter of this entire property so essentially everything that falls on-site stays on-site.

HILL This is a ground water pit so if you are concerned about lack of drainage into that, and drying that lake up. I don't think that is a concern because I am sure this was a sand pit and like this lake the level of the water will fluctuate.

MIKE BERUBE, 6802 S GROVE, WICHITA KS 67216 My wife and I would rather see this field remain farmland, but we realize that it has to be sold in an estate, somebody will buy it and something will be put on it. If this project is not approved most likely a housing development or trailer park will go on the land which will double the number of homes in the area bringing more noise, lights, trash, and traffic. If an additional housing development goes in we will have to put up with years of construction, noise, traffic, and debris. I am not looking forward to a working sandpit in my backyard but I would rather see this than roads, houses, traffic and people. We moved out here because of the quiet peaceful setting, and in about 10 years we will get a quiet lake in the long run.

BARFIELD Do you have any financial arrangements with the applicant?

BERUBE No.

DEBBIE NELSON My family owns the property in question. Obviously my grandparents did hold onto that land for a longtime. As a family unit we do agree that this would be a good investment for the area as well as for the future needs for the City.

DARRIN DEUTSCHER, 2209 E FAGER, WICHITA, KS 67216 I live in the Huntington Pointe Addition on the west side of Grove south of 63rd Street. Our addition sits due west of the proposed sandpit area. My neighbors and I are opposed to this request. This parcel of ground sits squarely in an established residential neighborhood. It is surrounded on four sides of this property with homes and the fifth sides is bordered by the Big Arkansas River, and there is also a home that is located directly east of Grove Street in the proposed sandpit property. There are numerous reasons we feel this request should be denied.

The traffic issue; this business wants to use Grove Street as their entrance and exit point from this sandpit which will add approximately 100 trucks a day to the street that is the only way in and out of this area. Even with the improvements to the street it does not elevate the problem it will still only be a two-lane road. I have spoken with Mr. Mark Borst with the Sedgwick County Public Works Department. I have obtained traffic reports from that office they have done on 63rd Street South in the years 2000, 2002, and 2004. In 2004, 63rd Street was under construction and it had 7,520 vehicles traveling this same stretch of road everyday. Now that the construction is completed Mr. Borst estimated that there would be 9,000 vehicles a day traveling past Grove Street. I would say 400-500 vehicles go down this stretch of Grove on a daily basis.

The resale value of our homes during the 12 years, and the subsequent development years of this project are difficult to predict with any accuracy. We were unable to find any other working sand plants located within existing residential areas. The closest we could come was one at Broadway and 63rd Street South. The difference between that site and the one being proposed were extreme. The other one is setback off of Broadway at least 500 feet, and only has residential houses on the north side, and this housing addition is sheltered from the sandpit operation by a large grove of mature trees. In contrast, there are no mature trees between our addition and this proposed sand plant. My personal realtor has informed us that an industrial business of any kind in a residential area does not enhance the value of your home. The homes in Huntington Pointe range in price from \$75-150,000 and those on Grove Court \$150,000 and up.

MCKAY Where do you live?

MIKE DEUTSCHER Points on map.

DEANNA DEUTSCHER, 2209 E FAGER, WICHITA KS 67216 Please know that I am not a nay-sayer. I support economic development and projects that help our economy, and believe that it is necessary to maintain and improve our community. As a fourth grade teacher I see the impact that lost jobs have on families and communities, and believe that we must move forward to improve our community.

I attended the Haysville Planning Commission meeting on October 28th and participated in that hearing. The Haysville Planning Commission did vote that down. One of the things that the Commissioners communicated to us at that meeting is that we needed to provide real data and facts in order for this Planning Commission to take us seriously.

In March of 2004 the net evaporation rate from a sand and gravel pit was calculated at approximately 20 inches per year in Sedgwick County. The proposed sandpit would be 90.1 acres. There are 150 water wells currently in use in this area.

The proposed 135.5 acres are zoned residential and not for commercial use. Each acre could contain four residential lots so 500 homes could be built on this parcel of ground. This would increase the tax base for Sedgwick County by \$756,000 per year. We understand that there is a developer already working with the City of Wichita to extend the sewer system to 63rd Street South in order to develop a housing addition in our area. We believe that current and continuing development would benefit Sedgwick County and the population thereof rather than a single industrial company.

The proposed area is across the street from currently developed and developing residential communities. Examples are the Pine Bay Golf Course, the Pine Bay Estates, Grove Court and Huntington Point. In our request for more information regarding sandpits in residential areas we traveled Sedgwick County looking at sandpits currently being excavated as well as those no longer in operation. One of about eight that we looked at is an excellent model of a well-run sand plant. The appearance was neat and organized but it is not in a residential area; its berm has mature trees, which would not be the case in our neighborhood. Five of the six plants are not in developing residential areas with the exception of the one on 63rd and Broadway. There are nine homes developed on these sites. Mr. Cornejo says he plans to develop the land around the 90 acre lake but with the excavation lasting 10-12 years it would take 15-20 years before the parcel of ground is developed enough to impact our properties positively, if indeed it is developed at all.

LONETTA LOLLAR, 7011 S Volusia, WICHITA KS 67216 I am here on behalf of the neighbors that are protesting, and we have a stack of protests here today that the neighbors have signed. Pictures have been taken of the proposed area when the wind blows there is sand. Even though that is not a sandpit truck, we are trying to convey what we would be living with and the dust.

I would like to find out why a property owner who signed a protest petition now appears to have joined the side of the applicant. Why the applicant did not approach each property owner who is within 200 feet of the same proposal that was given to the one property owner. Is this behavior considered a good neighbor?

The applicant has stated that all their company trucks put their cover over their trucks that haul debris, and he stated this at the first Haysville Planning Commission meeting but as we were driving here today truck number 660 was hauling debris and it did not have a cover on it. We have to be considered with this.

DUNLAP How many signatures do you have on those protest petitions?

LOLLAR We have at least 200 signatures. I had met with the Planning Department, and 200 feet within; we have 33 percent so we have the required 20 percent.

DUNLAP Did you go outside of the prescribed area and look for others?

LOLLAR Yes and we were met with good response there too. There was one person out of every residence that we approached that were against this development except for the property owner who has changed his mind within the last 24 hours.

HERNANDEZ Did you give an actual numbers?

DUNLAP You said 33 percent of protest?

LOLLAR The 200 feet that is the zoning commission law since it is city, which we couldn't understand because it is county.

HERNANDEZ How many people is that?

LOLLAR There are, say about 20 people who are affected within 200 feet.

HERNANDEZ What happened within the past 24 hours?

LOLLAR A property owner has been approached by the applicant, and they stood up two different times at the Haysville Planning Commission meeting protesting this, and now all of the sudden, as you have witnessed today, that same property owner has stood up today in agreement with the applicant. If the applicant is willing to work with one neighbor, why isn't he willing to work with all of the neighbors.

JOHN BRACK, 7011 S VOLUTSIA, WICHITA, KS 67216 My issue is the recommendation Item 4, if the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. I know that we are fighting an uphill battle here and your own staff report recommends approval. Cornejo and Sons did not lose money yesterday, they are not going to lose money today, and they will be making profit for many tomorrows to come. Ten to twelve years of noise, and air pollution, possible water contamination, possible property value decrease, increased industrial traffic, trash and blowing sand. They all point to an immediate negative impact on everything in this neighborhood. Cornejo and Sons may see a day when their bottom line shows red ink and for us that day can be today. We do not have the wherewithal to buy another property, live and hang onto our property next to a sandpit for 10-12 years hoping to make a profit. Our loss will be immediate.

JOHN SILVERS, 7000 S. RUTAN, WICHITA, KS 67216 Out of 27 residence we have 26 protest petitions. I want to state that nobody wants this sandpit.

WILLIAM BROWN, 2325 E 63rd S., WICHITA, KS 67216 I live at the southwest corner of 63rd and Grove. I moved down here to get away from the City when I retired and then I got incorporated. I am opposed to 50-100 trucks going passed my place everyday. I might add that I moved down here from Butler where we had a similar petition drive to keep Cornejo from building the dump which they built at 31st South and K-15. Their track record up there for being good neighbors is certainly not very good in the opinion of my neighbors up there. My big concern was the water table since I am on a well and they can say there is enough water there for everybody but if you lower the water table six feet your well may not pump water in spite of what their numbers say.

CHUCK HILL I would like to comment on the level of traffic if there are 9,000 vehicles a day at 63rd and Grove. We are talking about an increase of less than one percent. The water use issues, the Division of Water Resources is responsible for the allocation of water in this state, by state law. If we don't get a permit from them we won't have a sandpit at this location, it is as simple as that. They won't give us a permit if they believe there is going to be any adverse impact on the surrounding water wells. This is a ground water pit that is actively fed with fresh water all the time. It is like a reservoir, a lake. It is not a drainage pond that just has stagnant water in it. It will be recharged with the groundwater and with rainwater.

Is this the best place to put a sand extraction operation? Probably not, but in the real world that we live in there are very limited locations where you have enough land, sand, water, and a willing seller, and you are within 1,000 feet of a major paved road. We would rather have this operation somewhere where it doesn't affect anyone but it is just not possible to do that.

MARNELL In the process of developing this, I assume there is a layer of soil on top of the sand that you remove before the extraction, and that would be a relative short period of time to remove the soil, and then is the sand not extracted by a water process?

HILL The sand is extracted by a hydraulic dredge with a cutter that is underneath the water. Water, sand and dirt flow back through big hoses and pipes to the sand plant which will be located in that staging area, and then that is all sifted out. The water from the process goes back to the lake and the sand is left in a pile in that staging area. We are limited. I believe the conditions that you get from the State Conservation Commission from which we have to get a mining permit, we can only have something like six acres at a time where we have overburden removed and don't have the surface converted to water. Actually, if you look at it in terms of a farm field that may be plowed three to four times a year there will be less open dirt to blow around really at this location probably than if there is a farm field. Then we have to keep things covered, and seed the banks of the lake, everything is geared to keeping down dust, and dirt.

GIBBS Assuming Cornejo & Sons is the owner of this property, and this Conditional Use is not approved, do they have a contingent plan for development?

HILL We are not the current owner of this property. We have a contract to purchase the property subject to approval.

JOHNSON I want to talk about the redevelopment plan, can you speak on that at all? Why wouldn't there be any residential along the south as well as along the west so that it matches up.

HILL We are not in this to dig a lake to profit from a residential development. We are in this because we need to produce sand. If we wanted to have the maximum number of residential lots we would have maybe a 30-acre lake and put as many homes around it that we possibly could, and that is what some developers do. We are in the sand production business, but we recognize that we need to develop the property so that after we leave there is a good use for it, someone to maintain it, a homeowners association, to maintain some common areas; so what we have tried to do is we have to stay back a certain distance from the river, therefore we have houses along the riverside. We need the staging area. We also need to avoid the oil well so we have allowed for an area of homes in that location, and most of the rest of it, this is the maximum area that is going to be put to water. It kind of has square edges, it is most likely going to be rounded off and not look quite like that. Probably less than 90 acres go to water. We want to make this into a nice residential development but our primary interest is that we need sand.

BARFIELD If this is approved do you have plans to purchase that one house that is sitting right there?

HILL No we do not.

HERNANDEZ Mr. Hill, from a business standpoint you presented a very good case. Wichita could use maybe lower priced concrete. But I have to compliment the neighbors on presenting their case. My belief is life, and the quality of life, is not the bottom of the line. There has to be a compromise. What I think the neighbors would definitely suffer, and one of you said that there would be an immediate impact. I also agree with Mr. Brown's comments because the last time you were up here, Mr. Hill, there were a comparable amount of people that were opposing your facility. It appears that many promises were made which were not kept otherwise people would not be up here complaining. We sit before meetings and hearings like this many times, and my experience the last two times we have this many dissenters have been your operations, Cornejo & Sons. I think promises would be made that would not be kept, and then the time of renewal of permits and so on then you would be here with maybe more people about you guys not doing what you said you would do. I have little creditability in what you say and that is my opinion. It is only based on what I read in the papers, what I hear from the neighbors and that is what I am going to base my decision on and I am going to vote for denial.

BARFIELD Dale, on page 5, number 5, the last sentence says "The plan also contains recommendations stating the industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential area, and sited so as to not generate industrial traffic through less intensive areas." So based on that how could staff be recommending approval?

MILLER That is just one factor. This is a difficult case because of its location. There are probably as many reasons to argue for it as there are against it. We have to come down with the recommendation one-way or the other. There is another policy that says that we are supposed to support requests for uses when they are resourced based. If you could go to a store and buy sand in bulk quantity then we could put these anywhere but you have to go where the sand is. They have done the tests to determine where the best sand is.

MOTION: To deny the application.

HERNANDEZ moved, **BARFIELD** seconded the motion.

BISHOP I have some questions about the traffic patterns. I am curious about Hydraulic and the access to Hydraulic. The best access for a sandpit operation in that area is 63rd Street along Grove, and the condition is that piece at least has to be improved. Are there no other paved streets, and I am not suggesting that we find another possible access for the sandpit operation but I am talking about general egress and exits for folks that live in those areas. What other options do they have? I am afraid this is another one of those examples of building subdivisions that don't have adequate access into and out of their neighborhoods.

MILLER (Shows on the map the existing street pattern.)

BISHOP So that really is the main access into and out of that neighborhood. Is the paved street Grove all the way up to 63rd? That is bad.

DUNLAP I agree with some of things that Commissioner Hernandez said but I am not a judge here to judge his operations. I don't believe everything that I see in the newspaper, and I do believe that we do have a good company here. I disagree with your comments about Cornejo and Sons not being a good operation. I also understand Mr. Brown's comment about being annexed. As all the Commissioners know that I am in the middle of that right now. I don't want to be annexed either but I also believe that as long as we have more people we are going to have growth, and this growth has to be supported by the product that comes out from under that ground. We have approved sandpit operations in a lot of other places, and some of those have had access a lot further away from a major road than the way we do here. I don't disagree with some of the comments you made about the conditions of sandpits after they have been abandoned but there are also quite a number of pretty nice areas that have been created after a sandpit are finished too. I will not support the motion to deny.

HERNANDEZ I did not say Cornejo & Sons was a bad operation, I just said they are bad neighbors.

DUNLAP I disagree with that. I don't think you have the bases to make that decision.

HERNANDEZ The landfill people who were up here six months ago, and they have communicated with me on several occasions, and I saw 12 hands go up, and I would have to agree unless they changed dramatically, if we did have a motion let's not give them 12 years, let's give two years, and if they aren't good neighbors then we kick them out.

BARFIELD My second had nothing to do with the nature of the operation from Cornejo & Sons. My second was based on how this fits in with the properties surrounding it. I do not believe that this is the only site in Wichita left in which sand could be extracted.

MARNELL I think they came up with a good plan. They have put their extraction area as far away from the residential as the can. This is clearly low density residential. In this area to the north area that, at best, to be characterized as a commercial operation being a golf course, there are no homes on that side. That is where the fairways are. I think this is as low impact that you can get with this kind of an operation. The wind direction is from the southwest about 90% of the time, so I don't think this will be a true long-term problem in terms of the dust because they will have minor clearing to do from time to time, and then it will go by extraction by water.

SUBSTITUTE MOTION: To approve subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion.

GIBBS The purpose of this Board is not enforcement, it is to promote or approve land use.

BISHOP The proposed plat presented here is that the plat that then goes to Subdivision Committee, and how possible is it that additional homes could be added along the west side of along the south side? How easy would that be to change once we made the decision here and it goes to the platting process. I am going to support the substitute motion.

MILLER They are not required to plat the property until the end of the extraction operation, if it is approved.

JOHNSON You talked to traffic engineering about traffic on this road, will there be a turn lanes on this section? I travel Hydraulic periodically and that other access that comes out of there, and the traffic is going 55 mph on Hydraulic and if somebody decides to make a left turn it is going to be dangerous.

MILLER We didn't discuss turn lanes but we discussed the industrial street standard, but that is something we could have them look at. The right-of-way is somewhat tight but we could have Traffic look at that.

MCKAY Wasn't 63rd Street just improved between Hydraulic and Derby?

MILLER Yes.

MCKAY That is a four-lane road? After looking at this every one of these people who spoke are actually south of the area with the exception of one. Grove is paved to the south.

SHERMAN I would like to know is there a way that we could know where these people live.

DUNLAP Please come to the map and point where you live.

AUDIENCE Points on the map where they live.

SUBSTITUTE MOTION: To approve subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (10-2).
(HERNANDEZ, BARFIELD, opposed)

7. **Case No.: ZON2004-55** – BG Products, Inc., c/o Galen Myers (owner/applicant); Baughman Company PA c/o Terry Smythe and Krehbiel & Associates c/o Jeff Krehbiel (agents) Request Zone change from "B" Multi-family Residential and "GC" General Commercial to "GC" General Commercial and "LI" Limited Industrial on property described as;

GC and B to LI

Duncan's Addition: Even Lots 2 through 34 Supplementary

B to GC

Greenbay Addition: Lot 8

Fechheimer Addition: Even Lots 2 through 10 and 20 through 30, and 1/2 of adjacent vacated alley to the west.

Hagerty's Addition: Lots 1 through 19 on Water Street except Lots 5 and 6, and the south 13 feet of Lot 9, all of Lot 10, and the north 5 feet of Lot 11.

Duncan's Addition: Odd Lots 1 through 33, and 15 feet of Supplementary vacated right-of-way for Indianapolis Street except Lots 9 and 11, the south 13 feet of Lot 15, all of Lot 17 and the north 5 feet of Lot 19, and the west 34.50 feet of Lot 31 through 33, and the north 15 feet of vacated street adjacent on south of Lot 33. Generally located South of Kellogg and west of Water.

BACKGROUND: The applicant requests a zone change for 1.41 acres that fronts Wichita Street from "GC" General Commercial and "B" Multi-Family to "LI" Limited Industrial. The applicant also requests a zone change for 3 acres that fronts Water Street from "B" Multi-Family to "GC" General Commercial. The subject property is platted and is located south of Kellogg and west of Water

Street. The portion of the subject property proposed for "LI" zoning is currently developed with a parking lot. The portion of the subject property proposed for "GC" zoning is currently developed primarily with residential uses. The proposed use of the subject property is to expand the applicant's existing business, which is located west of the subject property.

The character of the surrounding area is dominated by the Kellogg Freeway and the various commercial uses along its frontage. The properties to the north are zoned "LI" Limited Industrial and "CDB" Central Business District and are being redeveloped as the "Waterwalk." The properties to the east are zoned "LC" Limited Commercial and "B" Multi-Family and are developed with a hotel and residential uses, respectively. The properties to the south are zoned "B" Multi-Family and are developed with residential uses. The properties to the west are zoned "LI" Limited Industrial and are developed with the applicant's business, BG Products, Inc.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" & "CBD"	Waterwalk
SOUTH: "B"	Residences
EAST: "LC" & "B"	Hotel, residences
WEST: "LI"	BG Products, Inc.

PUBLIC SERVICES: The subject property has access to Wichita Street and Water Street, both local streets with a pavement width meeting the commercial and industrial street standard of the Subdivision Regulations. All normal municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial sites should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial areas. The request conforms with the Land Use Guide and the Industrial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by the Kellogg Freeway and the various commercial uses along its frontage. The requested "LI" Limited Industrial and "GC" General Commercial zoning districts are present on adjoining tracts. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "GC" General Commercial and "B" Multi-Family and could continue in its current uses; however, the subject property has been acquired by the applicant, which owns the property west of the subject property, and is a logical location for an expansion of the applicant's business. The MAPC has an informal policy of supporting expansion of existing businesses at their current location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial sites should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial areas. The request conforms with the Land Use Guide and the Industrial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **MARNELL** seconded the motion, and it carried (12-0).

8. Case No.: ZON2004-54 – Mathew Alter (applicant); Terry Smythe, Baughman Company (agent) Request Zone change from "LI" Limited Industrial to "GC" General Commercial on property described as;

Lots 2 and 4, on Ohio Avenue, in Mathewson's 2nd Addition to the City of Wichita, Kansas, Sedgwick County, Kansas.
TOGETHER WITH

Lot 1, on Wabash Avenue, in Mathewson's 2nd Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, except the West 80.8 feet thereof, and except the North 0.05 feet of the East 28.2 feet of the West 109 feet thereof. Generally located Northwest corner of 1st Street North and Ohio.

BACKGROUND: The applicant is requesting to rezone a 0.35-acre site from "LI" Limited Industrial to "GC" General Commercial. This is a down zoning request in which the current zoning is less restrictive than the requested zoning. The application area is located on the northwest corner of East 1st Street and Ohio, and is developed with a church building, built in 1911.

The applicant plans to renovate the building for residential use. The "LI" zone does not permit residential uses, requiring this application for a zone change.

All properties surrounding the application area are zoned "LI". Several properties within several blocks in all directions retain legal nonconforming use status for residences. Two blocks west of the application area lies the "OT-O" Old Town Overlay district, which permits residences in "LI" base zoning. Immediately north of the application area is a single-family residence. South of the application area, across 1st Street, are warehouse and retail uses. East and west of the application area are office uses.

The application area falls within the environs of the locally registered historic Keen Cutter Building. Therefore the Historic Preservation Board reviewed this zone change request; the board had no issues.

CASE HISTORY: The property was originally platted as lots 2 and 4, and a portion of lot 1, of Mathewson's 2nd Addition in 1885.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Single-Family residential
SOUTH: "LI"	Warehousing, retail
EAST: "LI"	Office
WEST: "LI"	Office

PUBLIC SERVICES: East 1st Street is a two-lane one-way at this location with a 70-foot right-of-way. Ohio is a two-way local street with a 60-foot right-of-way.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita/Sedgwick County Comprehensive Plan, amended in January 2002, identifies the property as appropriate for "industrial/transportation/utility/communication." However, the Wichita/Sedgwick County Comprehensive Plan encourages "the concentration of multi-family residential and mixed use commercial development to activity centers within the central Wichita area."

RECOMMENDATION: Based on this information and the information available prior to the public hearing, staff recommends the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties surrounding the application area are zoned "LI"; numerous residences exist within the immediate neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be used for numerous non-residential uses under the current "LI" zoning. Residential use is not permitted under the current "LI" zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested zone change from "LI" to "GC" is in effect a "down zoning" to a more restrictive category. The requested zone change should have no detrimental affect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Rezoning to "GC" is not completely consistent with the "Wichita Land Use Guide" of the 1999 Update to the Wichita/Sedgwick County Comprehensive Plan, which identifies the property as appropriate for "industrial/transportation/utility/communication". However, the Wichita/Sedgwick County Comprehensive Plan encourages "the concentration of multi-family residential and mixed use commercial development to activity centers within the central Wichita area."
5. Impact of the proposed development on community facilities: No impacts are identified.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **MARNELL** seconded the motion, and it carried (12-0).

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9. **Case No.: CON2004-35** – Wichita West Development, Inc. c/o Jay Russell (applicant); Baughman Company, PA c/o Russ Ewy (agent) Request Conditional Use for a neighborhood swimming pool on property zoned "SF-5" Single-family Residential on property described as;

Lot 2, Block B, Auburn Hills 5th Addition, Wichita, Sedgwick County, Kansas Generally located Northwest corner of Fawnwood and Fawnwood Ct.

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool on a 0.25 acre platted lot. The subject property is located in the Auburn Hills neighborhood at the northwest corner of Fawnwood and Fawnwood Ct. The subject property is zoned "SF-5" Single-Family Residential and is currently undeveloped. A neighborhood swimming pool may be permitted on the subject property as a Conditional Use.

The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential and are currently being developed with single-family residences or are developed with the Auburn Hills Golf Course.

The attached site plan shows a 16-foot by 32-foot swimming pool, six parking spaces (including one ADA designated space) located south of the swimming pool, and a 10-foot by 16-foot restroom and equipment building located west of the pool. As proposed, the parking area does not meet one requirement of the Unified Zoning Code (UZY). Section IV-6.a. of the UZY does not permit the parking area circulation aisle within the front setback along Fawnwood Ct; however, the circulation aisle may be permitted within the setback area by a Zoning Adjustment approved by the Planning Director. The applicant has submitted a request for such a Zoning Adjustment, and the Planning Director will approve the Zoning Adjustment request if the Conditional Use request is approved.

Section IV-B.3.a. of the UZY requires screening along the west and north property lines. The required screening is a minimum 15-foot wide landscape buffer planted with one tree and five shrubs for every 30 lineal feet of adjacent property line, with at least one-third of the trees being evergreen. The landscaping shown on the site plan does not meet the minimum screening requirement; therefore, Planning staff recommends that the required screening be installed per a landscape plan to be approved by the Planning Director prior to the issuance of a building permit.

CASE HISTORY: The subject property is platted as Lot 2, Block B, Auburn Hills 5th Addition, which was recorded June 15, 1998.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single family residence
 EAST: "SF-5" Single family residence
 SOUTH: "SF-5" Vacant
 WEST: "SF-5" Vacant

PUBLIC SERVICES: The subject property has access to Fawnwood and Fawnwood Ct., two-lane residential streets. Water, sewer, and other municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development. This residential category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan, except that landscaping shall be in conformance with the landscape plan required by Condition #2.
2. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance and screening shall be provided in accordance with Section IV-B.3.a. of the Unified Zoning Code per a landscape plan approved by the Planning Director prior to the issuance of a building permit.
3. Prior to the issuance of a building permit, a Zoning Adjustment to permit the parking area circulation aisle within the front setback shall be acquired.
4. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential and are currently being developed with single-family residences or are developed with the Auburn Hills Golf Course. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of a low-density residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property. Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool most likely will be an amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development. This residential category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.

4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street.

MOTION: To approve subject to staff comments and citing the findings in their report.

MCKAY moved, **MARNELL** seconded the motion, and it carried (12-0).

❖ **PLANNING COMMISSION ITEMS**

10. Presentation of the 21st Street Revitalization Plan; set Public Hearing date for December 9, 2004.

DUNLAP The purpose of this item is to set a public hearing date; this is not a public hearing.

JOHN SCHLEGEL Summarized the 21st Street North Revitalization Plan. Generally located two blocks to the south and north of 21st Street North between Amidon Street and Hillside Street, as well as portions of the North Central Industrial area extending from 17th Street North to 33rd Street North, between North Broadway Street and I-135.

DUNLAP That property that is going to be used there, is that north or south of the current centerline of 21st Street?

SCHLEGEL We would use the existing 21st Street right-of-way.

DUNLAP There will not be a service road?

SCHLEGEL There will be a service road.

DUNLAP Is any of that property owned by the city in that industrial park area?

SCHLEGEL Not to my knowledge. Another complaint the plan will address is that the existing rail crossings are in need of repair. It is not a priority for the railroad so the City will need to make it a priority for the railroad and the City itself. Although the rail crossings are primarily a responsibility of the railroads the City may have to put some money into those.

Broadway intersections at 21st, 25th and 29th all need to be improved, left lanes and better right hand turns. We did talk about one-way bifurcation of 21st Street west of Broadway.

There was great debate going through this planning process about what to do at 21st Street and west of Broadway. What it came down to is one group that wanted it to be five lanes much the way that it is east of I-135. That's five very wide lanes. Another group, in order to better promote this area as a commercial area, pedestrian oriented and so forth liked the idea of splitting the roadway so that you would create a unique transportation feature a unique destination we have not gotten that resolved. The plan simply calls for deferring a decision on the existing four-lane roadway is adequate for the existing traffic for the time being. Sometime in the future, if traffic volume grows enough, we would have to five lane it but at this point and time we are going to put off that decision until we see how the commercial revitalization efforts pan out for that area.

Going to the east side, the stakeholders have told us that they liked what the City has been doing in that area over the last 15 years. Probably \$25-30 million invested in that area. They want to continue keep doing what we have been doing all these years. You can drive down 21st for a lot of evidence of private commercial redevelopment that has occurred.

DUNLAP Didn't we just hear the Boys and Girls Club are going to take that property?

SCHLEGEL What they are doing is taking a portion of that property. The Boys and Girls Club would go approximately where the main building used to be for the Heartsprings facility, and then development recreation facilities to the north of that. The center of the central planned area, the vision of the plan is to see that redeveloped in higher and better uses, more modern industrial park, more jobs, maybe even some office development. One of the keystone areas the plan identifies the Derby Refinery site; their intention is to start taking down the infrastructure of the refinery. They are under administrative order from KDHE, and they have talked to the City about a redevelopment effort for this site. They see it as a great asset. They have great accessibility, and visibility as well, and a lot better use can be made of that site. The concept that will be developed on the plan is to try and build on the culture diversity of the businesses that you find in that area now. The image of the area needs to be changed. We have been talking about an overlay district there because there are talking about small vendors. If you go to a Latin America there are small shops and vendors with push carts, so it will be hard for someone to sit those up because of the Zoning Ordinances.

MOTION: To set public hearing date for December 9th, 2004.

JOHNSON moved **BISHOP** and it carried 10-0.

The Metropolitan Area Planning Department informally adjourned at 3:57 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that

November 4, 2004

Page 21

the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)